

No. 17-35105

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

STATE OF WASHINGTON, et al.,
Plaintiffs-Appellees,

v.

DONALD J. TRUMP, et al.,
Defendants-Appellants.

On Appeal from an Order of the United States
District Court for the Western District of Washington

United States District Judge James L. Robart
Case No. 2:17-cv-00141-JLR

**MOTION FOR LEAVE TO FILE BRIEF OF
TECHNOLOGY COMPANIES AND OTHER BUSINESSES
AS *AMICUS CURIAE* IN SUPPORT OF APPELLEES**

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February 5, 2017

**MOTION FOR LEAVE TO FILE BRIEF OF
TECHNOLOGY COMPANIES AND OTHER BUSINESSES
AS *AMICI CURIAE* IN SUPPORT OF APPELLEES**

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure and Circuit Rule 29-3, *amici curiae* (a full list of *amici* is attached as Appendix A to Exhibit A¹), by and through undersigned counsel, respectfully move for leave to file a 20-page *amicus curiae* brief in support of Appellees’ Opposition to Appellants’ Emergency Motion for Stay Pending Appeal. *Amici* state as follows:

1. *Amici* are leading technology companies and leading businesses from other sectors of the U.S. economy. These companies’ operations are affected by the Executive Order issued on January 27, 2017, entitled “Protecting the Nation from Foreign Terrorist Entry into the United States” (the “Order”).

2. The Order represents a significant departure from the principles of fairness and predictability that have governed the immigration system of the United States for more than fifty years—and the Order inflicts significant harm on American business, innovation, and growth as a result. The Order makes it more difficult and expensive for U.S. companies to recruit, hire, and retain some of the world’s best employees. It disrupts ongoing business operations. And it threatens companies’ ability to attract talent, business, and investment to the United States.

¹ Complete corporate disclosure statements for each *amici* are attached as Appendix B to Exhibit A.

3. The proposed *amicus* brief, attached to this motion as Exhibit A, explains how the Order will harm *amici*'s business operations and is contrary to law.

4. Counsel for Appellants and Appellees both have consented to the filing of an *amicus* brief.

5. Out of an abundance of caution, *amici* file this motion to request the Court's leave to file a 20-page brief.

6. Neither the Federal Rules of Appellate Procedure nor this Court's Rules clearly authorize the filing of an *amicus curiae* brief in connection with a motion for a stay, even when the parties have consented to its filing.

7. In addition, Fed. R. App. P. 29(a)(5) states that, except with the Court's permission, an *amicus* brief may be no more than one-half the maximum length authorized by these rules for a party's principal brief. Circuit Rule 27-1(1)(d) does not speak in terms of "briefs," instead stating that, except with the Court's permission, a motion or response to a motion may not exceed 20 pages. Because it is unclear whether Circuit Rule 27-1 limits *amici* to 10 pages, and because *amici* believe that a 20-page brief is warranted in light of the importance and novelty of the issues presented, *amici* request the Court's leave to file a 20-page brief.

CONCLUSION

Amici respectfully request that the Court grant their motion for leave to file a 20-page *amicus curiae* brief and accept for filing the *amicus curiae* brief attached as Exhibit A.

Respectfully submitted,

/s/ Andrew J. Pincus

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Counsel for Amici Curiae

Dated: February 5, 2017

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(C), the undersigned counsel certifies that this motion:

(i) complies with the typeface requirements of Rule 32(a)(5) and the type style requirements of Rule 32(a)(6) because it has been prepared using Microsoft Office Word 2007 and is set in Times New Roman font in a size equivalent to 14 points or larger and,

(ii) complies with the length requirement of Rule 27(d)(2) because it is 470 words.

Dated: February 5, 2017

/s/ Paul W. Hughes

Paul W. Hughes

MAYER BROWN LLP

CERTIFICATE OF SERVICE

I certify that on this 5th day of February 2017, I served the foregoing Motion for Leave to File Brief of Technology Companies and Other Businesses as *Amici Curiae* in Support of Appellees via the Court's ECF system upon all counsel.

Dated: February 5, 2017

/s/ Paul W. Hughes

Paul W. Hughes

MAYER BROWN LLP